

Sills Cummis & Gross

A Professional Corporation

The Legal Center
One Riverfront Plaza
Newark, New Jersey 07102
Tel: (973) 643-7000
Fax (973) 643-6500

101 Park Avenue
28th Floor
New York, NY 10178
Tel: (212) 643-7000
Fax: (212) 643-6500

Jeffrey J. Greenbaum
Member
Admitted In NJ, NY
Direct Dial: 973-643-5430
Email: jgreenbaum@sillscummis.com

600 College Road East
Princeton, NJ 08540
Tel: (609) 227-4600
Fax: (609) 227-4646

January 12, 2018

Via ECF

The Honorable Steven C. Mannion, U.S.M.J.
United States District Court for the District of New Jersey
Martin Luther King, Jr. Bldg. & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: *White, et al. v. LG Electronics, Inc., et al.*
Civil Action No. 17-1775 (MCA)(SCM)

Dear Magistrate Judge Mannion:

We represent Defendant LG Electronics, Inc. and write on behalf of all served Defendants regarding Plaintiffs' failure to timely submit a proposed amended complaint in compliance with the Court's direction, agreed to by all parties, at this Court's September 26, 2017 status conference.¹ Plaintiffs' continued failure to prosecute this case warrants dismissal of the matter with prejudice.

Defendants filed their motion to dismiss this case on September 8, 2017. September 18, the deadline for Plaintiffs' opposition, came and went with no response. Shortly thereafter, at the parties' September 26 status conference before Your Honor, Plaintiffs requested a several month extension to the deadline to amend their complaint. The Court generously offered Plaintiffs a 30-day extension, which Plaintiffs rejected as insufficient. The parties, with the Court's guidance, thereafter reached agreement that Plaintiffs would have 90 days during which to seek to amend their complaint, and during which this matter would be administratively terminated. At the conclusion of the 90-day period Plaintiffs were required to submit their proposed amended complaint along with a letter requesting that the Court restore the case to active status, or the

¹ Sony Corporation and Sony Electronics Corporation (collectively "Sony") do not join in this submission as Sony has not yet been properly served. *See Ltr. From M. Melodia, Dkt. No. 18* (Aug. 25, 2017).

Sills Cummis & Gross
A Professional Corporation

The Honorable Steven C. Mannion, U.S.M.J.

January 12, 2018

Page 2

matter was to be dismissed with prejudice. Sept. 26, 2017 Hr'g Tr. at 4:9-14 (“In order to reactivate the case, plaintiffs’ counsel would need to file a letter with the Court—I’m going to say by December 22nd, so anytime up until December 22nd, a letter requesting that the case be restored to the active lists and *attaching a proposed amended complaint to be filed.*”) (emphasis added); *see also* Order for Stay and Administrative Termination, Dkt. No. 38 (Sept. 26, 2017).

More than 100 days have now passed and Plaintiffs still have not submitted a proposed pleading. On December 21, Plaintiffs filed a letter requesting that the case be reactivated (Dkt. No. 42), but failed to attach a proposed amended complaint—ignoring this Court’s instruction at the September 26 status conference and the local rules. *See* Local Rule 15.1 (requiring that a party who seeks leave to amend a pleading attach (1) “a copy of the proposed amended pleading”; and (2) “a form of the amended pleading that shall indicate in what respect(s) it differs from the pleading which it proposes to amend, by bracketing or striking through materials to be deleted and underlining materials to be added.”). Further, although Plaintiffs’ letter stated that they were prepared to file a proposed amended complaint “immediately” upon restoration of the matter to active status (Ltr. From M. Berman, Dkt. No. 42 (Dec. 21, 2017)), nearly two weeks have lapsed since the Court restored the matter and Plaintiffs have taken no action.

Plaintiffs have had ample time to prepare a proposed amended complaint, but have chosen to squander the substantial extension granted by this Court. Accordingly, Defendants respectfully request that Court dismiss this case with prejudice. *See* Sept. 26, 2017 Hr'g Tr. at 5:12-15 (“MR. MELODIA: And if after that 90 days, there was no response from plaintiffs [?] THE COURT: The case would be dismissed with prejudice.”).

Respectfully submitted,

/s/ Jeffrey J. Greenbaum

JEFFREY J. GREENBAUM

cc: All counsel of record (via ECF)